IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18127 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJENDRA CHHOTALAL DAVE - Petitioner(s)
Versus
THE DEPUTY COLLECTOR & 2 - Respondent(s)

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Appearance :
MR RC KAKKAD for Petitioner(s) : 1,
None for Respondent(s) : 1 - 2.
MS NISHA PARIKH, AGP for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 27/07/2007

ORAL JUDGMENT

1. Rule, learned AGP Ms. Parikh waives service.

2. The petitioner has invoked Article 226 of the Constitution for the prayer of quashing the order dated 25.06.2007, whereby the petitioner is denied the opportunity of requesting for reference under the provisions of Section 32B of the Bombay Stamp Act, 1958 (for short 'the Act') by depositing the necessary amount. The petitioner has also sought to challenge the original order dated 03.03.2003 by which market value of the property is determined and the petitioner is required to deposit the stamp duty under the provisions of Section 32A of the Act.

3. It was submitted by learned counsel Mr.Kakkad that, since the said order dated 03.03.2003 was not duly served upon the petitioner, he could not apply for reference under the provisions of Section 32B and his application for making the reference after making necessary payment was rejected by the authority only on the ground of limitation.

4. Learned AGP submitted that, without entering into controversy about the merits of the

impugned order dated 03.03.2003 or proper service thereof, the petitioner shall be allowed to make application for reference under Section 32B of the Act and necessary challan for depositing with the Collector, 25% of the amount of the difference of duty payable by the petitioner shall be accepted by the authority for the purpose of making the reference. It was also stated that, if the petitioner submits his application for making reference and deposits the requisite amount under the provisions of Section 32B of the Act, the Collector concerned shall draw up a statement of the case and refer it to Chief Controlling Revenue Authority within a period of 60 days and the Chief Controlling Revenue Authority shall consider the case of the petitioner on merits after affording an opportunity of being heard, provided that the petitioner makes necessary application and deposits the amount within a period of 15 days.

5. Upon the above statement being made and recorded hereinabove, the petition was not pressed for any further relief.

6. Accordingly, the petition is disposed as partly allowed and Rule is made absolute in the above terms with no order as to costs.

(D.H.WAGHELA, J.)

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